ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH (ACCSH)

MINUTES OF 11 – 12 SEPTEMBER 2008 MEETING

Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor
200 Constitution Avenue
Washington, DC

The meeting of the Advisory Committee on Construction Safety and Health (ACCSH) was called to order by the chair, Mr. Linwood Smith, at 8:30 a.m. on Thursday, Sept. 11, 2008. The following members and representatives were present for all or part of the meeting.

NAME	SECTOR REPRESENTED	TITLE & ORGANIZATION
Elizabeth Arioto	Public	Elizabeth Arioto Safety & Health Consulting Services
Kevin D. Beauregard	State	Assistant deputy commissioner, Assistant Director, Division
		of Occupational Safety and Health, NC Department of Labor
Thomas A. Broderick	Public	Executive Director, Construction Safety Council
Matt Gillen	Federal Designee	Construction Program Coordinator, National Institute for
		Occupational Safety and Health (NIOSH)- Centers for
		Disease Control and Prevention (CDC), Office of the Director
Dale David Haggerty	Employee	Director, National Construction Agreements, International
		Brotherhood of Boilermakers, Iron Ship Builders,
		Blacksmiths, Forgers and Helpers
Steven D. Hawkins	State	Asst. Administrator, TN Occupational Safety and Health
		Administration
Thomas L. Kavicky	Employee	Safety Director, Asst. to the President Chicago Regional
		Council of Carpenters
Robert Krull	Employee	Director of Safety and Health, United Union of Roofers,
		Waterproofers and Allied Workers
Frank L. Migliaccio, Jr.	Employee	Executive Director, Safety & Health International Assoc. of
		Bridge, Structural, Ornamental & Reinforcing Ironworkers
Dan Murphy	Employer	Vice President, Zurich North America
Emmett M. Russell	Employee	Director, Department of Safety and Health, International
		Union of Operating Engineers
Thomas R. Shanahan	Employer	Assoc. Executive Director, National Roofing Contractors
		Association
Linwood O. Smith	Employer	Vice President, Risk Management & Safety, T.A. Loving
		Company
Michael J. Thibodeaux	Employer	Consultant, National Association of Homebuilders
Daniel D. Zarletti	Employer	Vice President , Safety, Health & Environment, Kenny
		Construction Company
Sarah Shortall	ACCSH Counsel	Office of the Solicitor, U.S. Dept. of Labor
Noah Connell	Designated Federal Official	Acting Director, Directorate of Construction, OSHA
Michael Buchet	Alternate Designated Federal Official	Acting Director, Office of Construction Services, Directorate of Construction, OSHA

The following exhibits were entered into the record during the course of the meeting.

OSHA-2008-0029-0002

Approved minutes of the May 15-16, 2008, ACCSH meeting

OSHA-2008-0029-0003	Approved report on the Residential Fall Protection Work Group meeting on September 9, 2008
OSHA-2008-0029-0003.1	"NIOSH-Designed Adjustable Roof Bracket-Safety Rail Assembly" brochure distributed at the Residential Fall Protection Work Group meeting on September 9, 2008
OSHA-2008-0029-0004	Approved report on the Diversity/Women in Construction Work Group Report meeting on September 9, 2008
OSHA-2008-0029-0004.1	Laura Welch et al., "Women in Construction: Occupational Health and Working Conditions," 55 Journal of American Medical Association No. 2, Spring 2000, distributed at the Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0004.2	National Association of Women in Construction, "NAWIC Facts," October 2000, distributed at the Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0004.3	National Association of Women in Construction, "NAWIC Facts," September 2005, distributed at the Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0004.4	Mark Avera "Women in Construction," www.topbuildingjobs.com , June 5, 2007, distributed at the Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0004.5	Industrial Accident Prevention Association, "The Directory – Where to Find PPE for Women," 2006, distributed at the Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0004.6	Hard copy of PowerPoint presentation titled "Update on Safety and Health of Women in Construction" by Carmen Shafer, Shafer Safety Solutions, presented at Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0004.7	National Association of Women in Construction, "NAWIC Facts," October 2007, distributed at the Diversity/Women in Construction Work Group meeting on September 9, 2008
OSHA-2008-0029-0005	Approved report on the Silica Work Group meeting on September 9, 2008
OSHA-2008-0029-0006	Approved report of the Trenching Work Group meeting on September 10, 2008
OSHA-2008-0029-0007	Hard copy of PowerPoint presentation on the proposed rule to revise the Hazard Communication standard (Globally Harmonized System) by Maureen Ruskin, Directorate of Standards and Guidance
OSHA-2008-0029-0008	Approved report of the Rollover Protective Structures Work Group meeting on September 10, 2008
OSHA-2008-0029-0009	Approved report of the OSHA Training Institute (OTI) Work Group meeting on September 10, 2008

OSHA-2008-0029-0010	Hard copy of PowerPoint presentation entitled "BLS Occupational Injury and Illness Data" by Janice Windeau, Bureau of Labor Statistics
OSHA-2008-0029-0011	Hard copy of PowerPoint presentation entitled "OSHA Data Sources and Uses" by David Schmidt, OSHA Office of Statistical Analysis
OSHA-2008-0029-0012	Hard copy of PowerPoint entitled "Mast Climbing Platform Work Group Update" by Pam Susi, Center to Protect Worker Rights – The Center for Construction Research and Training
OSHA-2008-0029-0013	"Final Review Draft Recommendations from the CPWR Mast Climbing Work Platform Scaffold Work Group," September 2, 2008
OSHA-2008-0029-0014	Memorandum to ACCSH from OSHA Assistant Secretary Edwin G. Foulke on the proposed modifications to the Hazard Communications standard and requests for ACCSH input
OSHA-2008-0029-0015	Letter from Paul Lagerstedt, Super Anchor Safety, and attached document entitled "Super Anchor Safety User Liability Questions"
OSHA-2008-0029-0016	"Successful Collaborations: OSHA Cooperative Programs and the Construction Industry" report
OSHA-2008-0029-0017	Approved report of the Multilingual Issues on Construction Work Sites Work Group meeting on September 10, 2008
OSHA-2008-0029-0017.1	"Fatalities and Fatality Rates in Construction" prepared by OSHA and distributed to the Multilingual Issues on Construction Work Sites Work Group meeting on September 10, 2008
OSHA-2008-0029-0018	Andrew McIntosh, "Nail gun maker warned in 2002 that their safety efforts fall short, documents show," The Sacramento Bee (www.sacbee.com), June 28, 2008
OSHA-2008-0029-0018.1	"Nail-Gun Injuries Treated in Emergency Departments – United States, 2001-2005," Morbidity and Mortality Weekly Report, Center for Disease Control and Prevention, April 13, 2007
OSHA-2008-0029-0018.2	Hester Lipscomb et al., "How Much Time is Safety Worth? A Comparison of Trigger Configurations on Pneumatic Nail Guns in Residential Framing," 123 Public Health Reports July-August 2008
OSHA-2008-0029-0019	Hardcopy of PowerPoint presentation entitled "Recent Construction Incidents Under Investigation" by Mohammad Ayub, Office of Engineering Services, Directorate of Construction

Approximately 40 members of the public attended at various times, as were a number of DOL/OSHA representatives.

Mr. Smith welcomed the attendees, reviewed the agenda and asked the members to introduce themselves. He discussed the ACCSH mission, which is to advise the Secretary of Labor regarding standards that might be promulgated. Mr. Noah Connell, Designated Federal Official, greeted the members. Mr. Smith then asked for a moment of silence in memory of those who lost their lives in the events of 11 September 2001.

Michael J. Thibodeaux moved that the minutes of the May 15-16 2008 ACCSH meeting, as revised, be approved. The motion was seconded and passed unanimously.

The members discussed the dates for the next meeting, and decided to meet the week of 1 December 2008

Thomas L. Kavicky then moved that ACCSH recommend to OSHA that an ACCSH meeting be held in Chicago on February 19-20 in conjunction with the Annual Construction Safety Conference.

The motion was seconded and passed unanimously.

The Chair recognized Venetta Chatmon for her work in support of the committee.

Residential Fall Protection Work Group Report

Mr. Thibodeaux presented the report. Attendance was good with 27 attendees. The Co-Chairs reviewed the actions taken by the work group at its May 2008 meeting.

Tom Trauger, Winchester Homes, gave a PowerPoint presentation regarding fall protection in residential construction. He showed a bracket system his company uses on concrete forms and basements; he also showed applications using anchor points, lanyards and harness when workers are installing dry wall in two-story foyers, installing windows or painting.

Jim Green, NIOSH, reviewed a pilot project focusing on wood frame construction (trusses). The project will begin in October and will look at test methodology, anchor systems and bracing patterns. NIOSH is partnering with Wood Truss Council of America (WTCA) and National Association of Home Builders (NAHB) and other interested groups.

Kirk Grundahl, WTCA, will do testing on wall and truss bracing through the end of this year. They are exploring having the bracing used in truss erection be the permanent bracing.

Jeremy Bethancourt, LeBlanc Framing, advised that although they use conventional fall protection they also use a written fall protection plan. They use the plan to train employees.

Dave Barber, Petersen-Dean, Inc., uses written fall protection plans and trains each of their 2,500 employees. They use a "Buddy System" when on roofs, and periodically inspect their fall protection systems. All workers tie off on roofs.

Tom Bobick, NIOSH, discussed the Adjustable Roof Bracket-Safety Rail Assembly being tested by NIOSH.

Work group participants were asked to share information on new fall protection products with the Work group so ACCSH can be kept aware of what is available.

The participants recommended that the residential fall protection work group continue to meet.

Frank L. Migliaccio, Jr. moved that the Residential Fall Protection Work Group report from the September 9, 2008, meeting be approved. The motion was seconded and passed unanimously.

Thomas A. Broderik commented in regard to the presentations to the work group that the committee is probably losing an opportunity to collect DVDs, videos, etc for the website, and that work groups should try to get permission to post materials presented to them. Sarah Shortall commented that they should get a hard copy, and the committee needs to be made aware if the materials are copyrighted.

Remarks of the Assistant Secretary

Assistant Secretary Edwin G. Foulke, Jr. said that he had just come from the 9-11 memorial event and commented briefly on the sacrifices of those who died in New York, Pennsylvania and the Pentagon. He welcomed the committee members and thanked them for sharing their expertise and insight to help OSHA do a better job. Mr. Foulke emphasized that the bottom line is that everyone can go home each night safe and sound. He said that OSHA and ACCSH are making a difference in providing a safe and healthy workplace.

Assistant Secretary Foulke said that workplace fatalities dropped 6% from 2006 to 2007, and the rate of incidents per 100,000 workers dropped to 10.3. Although 52 less people died in the construction industry than in the previous year there was a 2% increase in deaths resulting from falls. OSHA is developing a web page devoted to fall protection and prevention.

The Assistant Secretary said that it is vital to continue to work to improve workplace safety and health because one fatality is one too many. Toward that end we must improve our outreach to Spanish workers. Hopefully the numbers will continue to drop. This year (2008) appears to be down from 2007.

OSHA ramped up in preparation for hurricane season. Cleanup work is dangerous and OSHA can provide technical assistance to identify hazards. In Louisiana there are some 15,000 electrical workers involved in hurricane related work. The crews strongly focus on safety. As the restoration progresses, the focus will be on residential construction.

Mr. Foulke indicated that the Cranes and Derricks standard will be in the Federal Register in the next few weeks. He discussed OSHA cooperative programs which provide opportunities for businesses to work with OSHA to address workplace safety and health issues. Participants can expect to see their injury and illness rates significantly reduced, resulting in increased insurance savings. There are 14 new alliances, including a number with Regional and Area Offices. The VPP program has 80 companies involved, and the Strategic Partnership Program has an increase of 43% in the number of people affected. Mr. Foulke will be meeting with Clark Construction Group regarding implementation of health and safety management systems during construction of the National Military Medical Center in Bethesda, MD.

Global Harmonization is moving forward and will be the subject of a presentation to the ACCSH members later in this meeting.

The Assistant Secretary thanked Noah Connell for his service as Acting Director of the Directorate of Construction. The permanent selection will be announced within a month or so.

Bill Parsons is the new Director of the Office of Construction Standards and Guidance, and David Zwolak is the new Director of Construction Services.

Assistant Secretary Foulke thanked Mr. Smith and the members of the ACCSH committee. He said he is looking forward to seeing the ACCSH recommendations regarding the 10 and 30 hour training, and hopefully through the efforts of the committee and OSHA the country will have a better trained workforce.

Mr. Thibideaux inquired about the status of the possible rescission of OSHA's Interim Fall Protection Compliances Guidelines for Residential Construction, STD 03-00-001. Mr. Foulke indicated that work is still ongoing.

Mr. Krull asked if there are any new developments in the situation in Las Vegas. Mr Foulke answered that there have been meetings with construction companies and hotel representatives to emphasize the need for construction safety.

Mr. Krull inquired about reappointments to ACCSH. Mr Foulke answered that the recommendations have been submitted to the Secretary of Labor for review.

Report of the Diversity/Women in Construction Work Group

The Work Group meeting was attended by seven ACCSH members and 11 others representing a variety of construction companies and labor associations.

After self introductions the co-chairs explained the ACCSH decision to separate the Diversity/Multilingual Work group into a Multilingual Work group and Diversity/Women in Construction Work Group. The floor was then opened for discussion of safety and health issues for women in construction.

Carmen Shafer of Shafer Safety Solutions presented fact sheets and statistical data on fatality, injury and cause of injury information for women in construction

Items discussed by work group included women's perception that construction is a dangerous occupation; the need for experienced and trained mentors to new workers; harassment and workplace violence issues; women's strengths and capabilities; appropriately fitting PPE and the need for appropriate instructions in PPE use for women; and ergonomic concerns.

The work group recommendations to ACCSH are to create a resource page on the OSHA website to include links to women in construction groups and associations; create a directory of suppliers of PPE for women construction workers; update the 1999 HASWIC study "Women in the Construction Workplace: Providing Equitable Safety and Health Protection; Invite manufacturer/supplier representatives to discuss PPE issues at future ACCSH and work group meetings.

The work group recommends that it continue to meet.

Tom Broderick moved that the Diversity/Women in Construction Work Group report from the September 9, 2008, meeting be approved. The motion was seconded and passed unanimously.

The work group report and presentation materials were entered into the record as OSHA-2008-0029-0004 through OSHA-2008-0029-0004.6

Report of the Silica Work Group

The meeting was attended by two ACCSH members and eight representatives of construction companies and associations.

After introductions the co-chair, Mr. Thomas Shanahan, reviewed the May meeting minutes, and opened the floor to discussion. The idea of creating a matrix to identify silica exposure activities and work practices that address reducing or eliminating them was debated. Mr. Walter Jones will create a draft matrix for the group to consider. The group members agreed to work on this draft before the next meeting.

The group discussed OSHA activities regarding silica. Mr. Dave Zwolak offered to have a representative from OSHA Standards and Guidance attend the next meeting and provide an update.

The group members feel that many in construction are unaware of the dangers of silica, and how effective control methods can be. Dave Zwolak offered to bring all OSHA documents related to the subject. Co-chair Shanahan mentioned that NIOSH has developed some documents and that he will contact Matt Gillen to assist.

The group discussed CALOSHA and New Jersey regulations and it was decided that the group should review those laws with an eye toward recommendations to ACCSH.

There were no action items to recommend to ACCSH.

The group recommends that it continue to meet.

Mr. Robert Krul (Silica Work Group co-chair) moved that the Silica Work Group report from the September 9, 2008, meeting be approved. The motion was seconded and passed unanimously.

The report on the Silica Work Group meeting of September 9, 2008 was entered into the record as OSHA-2008-0029-0005

Report of the Trenching Work Group

Seven ACCSH members and 15 others representing OSHA as well as construction companies, associations and Government agencies attended.

After introductions the co-chairs gave a brief overview of the crane summit held September 9th at the request of the committee.

Mr. Steve Hawkins gave a presentation regarding state activities in response to the trenching special emphasis program. He highlighted Tennessee, North Carolina, Virginia, and Oregon. He also addressed the training of state inspectors and employees to recognize trench hazards. Mr. Hawkins has contacted all state plan states and provided a state by state report which will be expanded as states provide input.

The work group attendees were given a list of 2008 trench accidents for review.

The work group discussed mandatory training or certification for trench workers, and a number of outreach possibilities such as fire, police, equipment rental sites, and vendors who might help spread information about trench safety.

The work group asks that ACCSH recommend:

That Federal OSHA continues its trench initiative to assist OSHA Regions and state plan programs with their efforts to reduce trench related fatalities and injuries.

That OSHA provide links on the OSHA trenching website to additional trenching safety tools, and post trench videos on u-tube and the OSHA website.

That OSHA invite the Office of Communication to the next trenching work group meeting to discuss outreach possibilities that would help with educating small contractors and workers in the industry regarding trench/box shoring systems rental options.

The trenching work group recommended that it continue to meet.

Mr. Migliaccio moved that the Trenching Work Group report from the September 10, 2008, meeting be approved. The motion was seconded and passed unanimously.

The approved report of the Trenching Work Group meeting on September 10, 2008 was entered into the record as OSHA-2008-0029-0006.

Presentation - Revision of Hazard Communication Standard to Adopt Globally Harmonized System

Maureen Ruskin, Director, Office of Chemical Hazards – Metal in OSHA's Directorate of Standards and Guidance, assisted by Bob Burke, Director, Office of Regulatory Analysis in OSHA's Directorate of Evaluation and Analysis, gave a presentation regarding the Globally Harmonized System of Classification and Labeling of Chemicals – GHS. GHS provides a common, coherent approach to classifying and communication of chemical hazards, and includes harmonized definitions of hazards, specific criteria for labels, and harmonized format for safety data sheets (SDS). The goal is that all domestic and international systems use the same definitions of hazard for the same chemical, provide the same basic information on labels, and use the same SDS format. Ms. Ruskin emphasized that it is not a proposed standard.

The Advanced Notice of Proposed Rulemaking was published on 12 September 2006. Over 160 comments were received, most supporting adoption. Concerns included cost, phase-in timing and impact on other standards. The peer review of the preliminary economic analysis was completed in November 2007. The next steps will be to publish the proposal of the modified Hazard Communication Standard-HCS, the comment period and informal hearings and final rulemaking.

Affects on the construction industry will include initial employee training on pictograms, hazard statements and signal words. Preliminary costs in the construction sector will be about two hours of health and safety manager's time in management familiarization and program adjustments, and 30 minutes for all employees handling hazardous chemicals. OSHA has preliminarily determined that the revisions to other standards will impose no additional costs.

Anticipated benefits include a 1% reduction in injuries, illnesses and fatalities over those estimated for the original HCS, and reduced time needed to handle and store chemicals through improved operating efficiency.

In response to questions from Mr. Thibideaux, Ms. Ruskin indicated that the new signage will be standardized through a third party, that the implementation period will be three years, that there will be outreach from OSHA to contractors and one of the most important outreaches will be to small businesses.

Mr. Migliaccio inquired why some parts were not mandatory. Ms. Ruskin indicated that they are not within OSHA jurisdiction.

Mr. Krull stated that he thinks there will be industry-wide support, and asked if there is any impact to storage quantities. Ms. Ruskin answered that no changes are anticipated.

Mr. Hawkins asked if there are any changes for non-containerized gases. The response was that there should not be an incompatibility.

Mr Shanahan inquired as to the logic for four levels of flammability. Ms. Ruskin answered that storage requirements drove the flammability levels.

Mr. Zarletti commented that the previous HCS identified parts of the body. Ms. Ruskin indicated that in the new version the same information is available, but in harmonizing language.

Ms. Shortall commented that it is part of the outreach program to put materials on the webpage, and that when associated materials are finalized they will be available on the webpage.

Mr. Broderick asked if there will be problems with data sheets from other countries. Ms. Ruskin answered that no changes are anticipated in how data sheets are received.

A hard copy of PowerPoint presentation on the proposed rule to revise the Hazard Communication standard (Globally Harmonized System) by Maureen Ruskin, Director, Office of Chemical Hazards – Meta, was entered into the record as OSHA-2008-0029-0007A

Report of the Rollover Protective Structures Work Group (ROPS)

Mr. Emmett Russell reported that the ROPS Work Group was attended by five ACCSH members and six representatives of construction related companies or organizations. AEM representative Richard Dressler introduced Steve Neva of the Bobcat Company, who gave a detailed presentation on the skid steer loader. He stated almost all US manufactured machines used in construction have a ROPS and that changing the OSHA regulation to require all machines to have a ROPS would not be a problem. Concern was expressed that there might be an impact on the requirement for a back up alarm on machines with an unobstructed rear view. There was also concern that if the exclusion were to be removed for these machines citations might be issued. Mr. Neva indicated that about 50% of currently manufactured machines have backup alarms when delivered.

For older machines ROPS retrofit kits are available and almost no machines used in construction are without ROPS, so no provision would have to be made for older machines.

Mr. Neva gave a detailed presentation on the mini excavator. Some of these are manufactured with ROPS, others with Tip Over Protection Structures (TOPS), because these machines are more likely to tip over than roll. Mr. Neva believes the industry is prepared to agree to regulation mandating TOPS as a minimum protection for operators.

The work group members will review the Bobcat and Caterpillar websites for additional safety information.

A request was made to OSHA for accident and fatality data for both machines.

The ROPS work group recommends that it continue to meet and should develop recommendations as to how OSHA should deal with skid steer loaders and mini excavators.

The approved report of the Rollover Protective Structures Work Group meeting on September 10, 2008 was entered into the record as OSHA-2008-0029-0008.

Report of the Focused Inspection Work Group

The Focused Inspection Work group did not meet. Mr. Shanahan asked what the charge of the work group is. Mr. Buchet replied that it is to look at inconsistent use of the focused inspection process. After discussion it was decided that the work group will continue and requested data from the Agency on numbers of inspection conducted in construction using this inspection procedure. The chairman, Mr. Smith asked that ACCSH members survey their constituencies for experiences with the focused inspection procedure.

Report of the OTI Work Group

The OTI Work Group meeting had 22 participants including co-chairs Frank Migliaccio and Tom Shanahan, as well as seven other members of ACCSH.

Mr. Migliaccio reported on a meeting with Jim Barnes and Hank Payne of The Directorate of Training and Education-DTE. An agreement was reached to adjust the schedule of the OSHA 10 Hour class to allow four hours of flexibility for the trainer to focus on industry specific issues.

During a conference call with Don Guerrra and Ernest Thompson of the OSHA Training Institute-OTI within DTE concern was raised about the effectiveness of an on-line 500 course being offered. The work group members feel strongly that the train-the-trainer portion of the course cannot be done successfully online. OTI is looking into the effectiveness of this approach and will make a determination whether to continue or withdraw approval for the course.

The University of South Florida offers an OSHA 510 course and gives the 30-hour card upon completion. OTI ha asked USF not to do this, and will follow up with the University and report back to the co-chairs.

The discussion also included concerns about oversight of the activities of the Education Centers, monitoring the quality of 10 and 30 hour trainers, the need for on-the-job experience for the d500 course trainers, prerequisites for the 500 course, clarification of "or equivalent" as it applies to prerequisites, and a review of the class goals of the 510 and 30-hour courses because of similarities.

The work group recommends that it should continue to meet and work on these issues.

During a discussion after the work group report, Mr. Krull voiced concerns regarding on-line training "dumbing down" the process. He said reading comprehension and cheating are also concerns. Mr. Shanahan said that while on-line training has its place for this class a big part of the class is devoted to training trainers, which cannot be done effectively on-line. A public attendee, Mr. George Kennedy, Safety Director for the National Utilities Contractors Association, in response to a question from the ACCSH chair said that on-line training would suffice for a refresher course, but initial training needs to be one on one. Mr. Migliaccio said that first time instructors should have to demonstrate their capabilities before their peers. Mr. Murphy voiced concerns that inexperienced persons could recertify online.

Mr. Kavicky moved that the OSHA Training Institute Work Group report from the September 10, 2008, meeting be approved. The motion was seconded and passed unanimously.

Tom Shanahan moved that ACCSH recommend to OSHA that the OSHA 510 course not be the sole prerequisite for the OSHA 500 course. The motion was seconded and passed unanimously.

The approved report of the OSHA Training Institute (OTI) Work Group meeting on September 10, 2008 was entered into the record as OSHA-2008-0029-0009.

Construction Safety Standards Update.

Mr. Bill Parsons, Director, Office of Construction Standards and Guidance, summarized his construction industry experience and background. He said that much can be accomplished if OSHA and ACCSH work closely together.

Mr. Garvin Branch, Office of Construction Standards and Guidance provided an update: A public hearing on the proposed rule for confined spaces in construction was held 22 and 23 July; the post hearing comment period for those who testified is extended until 23 October.

The draft proposed rule for Cranes and Derricks in construction has cleared review at the Office of Management and Budget-OMB. The proposed rule should be published soon in the Federal Register.

Mr. Emmitt Russell inquired if the proposed rule was ready for the Crane and Derrick Negotiated Rulemaking Advisory Committee-CDAC to review. Mr. Connell indicated that the next thing to happen is the CDAC review, and then publishing in the Federal Register, the timing is still to be worked out. Mr. Broderick asked if it will be a public release. Mr. Connell responded that the public comment period will not begin until it is published in the Federal Register.

Mr. Parsons indicated that information on this proposed rule is available at www.regulations.gov.

BLS-CFOI and OSHA-IMIS Data Overview

Janice Windau of the Bureau of Labor Statistics gave an overview of BLS Occupational Injury and Illness Data. She discussed the following data programs: The Census of Fatal Occupational Injuries (CFOI); The Survey of Occupational Injuries and Illnesses (SOII); and Occupational Injury and Illness Classification System (OIICS).

SOII is concerned with private sector wage and salary workers other than small farm workers and household employees, and state and local government workers. Data collection can be by mail, e-mail or internet. Recordable case counts, incidence rates, and quartile data are available.

CFOI includes all types of employment. Information is collected through death certificates, workers compensation reports, OSHA reports, and media reports. Data elements include industry, occupation, demographic characteristics, case characteristics, worker activity, time, and location of the incident.

OIICS was developed in 1992 and updated in 2007 and is currently undergoing revision. It describes the characteristics of injuries and illnesses involving days away from work (SOII) and fatal injuries (CFOI).

The BLS website, http://www.bls.gov/iif/home.htm, contains news releases, charts, tables, state data and contacts, profiles, and items of current interest.

A discussion of how to compare state data followed Ms. Windau's presentation. Ms. Windau indicated that the states select specific industries to collect data from and that she could refer the issue to a statistician.

Mr. Kavicky asked if BLS could differentiate between union and non-union. Ms. Windau answered no in the case of non-fatal, and for fatal it depends on information available on the death certificate, etc.

Mr. Gillen asked if small employers are represented in SOII, and if it is possible to create a fatality rate by subsector. Ms. Windau answered that BLS is looking into that, and Mr. Broderick commented that it would be useful in trying to analyze accidents.

The discussion turned to the need for standard definitions of data items and how ACCSH members could help with improving descriptive information.

Mr. David Schmidt gave a presentation about OSHA data sources and their uses. The OSHA Integrated Management Information System (IMIS) contains OSHA's inspection history, fatality/catastrophe narratives, inspections by Standard Industrial Classification-SIC, frequently cited standards, and industry profiles for OSHA standards. The data is available to the public through 2004, and internally available to OSHA to date.

The University of Tennessee-UT Construction Industry Research and Policy Center (CIRPC) is contracted to do a fatality study which reports on direct causes of fatal incidents in the construction industry which occurred in 2006. Earlier studies have analyzed fatalities from 1991 through 2005.

F.W. Dodge is contracted to provide UT-CIRPC a monthly list of construction projects in the United States valued at \$50K or over that are planned to start within 60 days. CIRPC determines when these projects are 60% completed and uses that information to prepare randomized project lists for OSHA Area Office inspection programming. CIRPC also has access to data which allows text searches for key words in descriptions of planned projects.

Mr. Russell asked if the data from CIRPC is publicly available. Mr. Schmidt said that OSHA has a contract and the inquiry should go through OSHA.

Mast Climbing Platform work group update.

Pam Susi of CPWR-The Center for Construction Research and Training, gave a presentation on Mast Climbing Platforms-MCWP and the Mast Climbing Working Group. The working group is co-chaired by Steve Martini, International Masonry Institute, and Jim Kinateder, International Council of Employers. Participants include OSHA, International Union of Painters and Allied Trades-IUPAT, Philly and OH building trades, Scaffold Industry Association, CPWR, and International Powered Access Federation-IPAF. The goals are to research causes of accidents, access the adequacy of current regulations, standards, etc., and make recommendations to prevent injuries and death associated with mast climbing platform use.

The benefits of Mast Scaffolding include cuts in labor costs of about 30% and a reduction of access time by as much as 90%.

Ms. Susi summarized fatal accidents involving mast scaffolds since 1992 (12 total fatalities). Common problems that contribute to these accidents include corrosion of components, removal of the last tie-off, resulting in tipping, overloading or unbalancing, inadequate base support, insufficient anchorage, hitting immovable objects in the path of travel, excessive gaps between the building and work platform and removal of planking or guardrails.

Ms. Susi reported that preliminary findings included lack of training, lack of engineering controls, poor site coordination and poor communication between manufacturers, contractors and workers. An additional finding noted OSHA standards addressing MCWPs are inadequate.

American National Standards Institute-ANSI A92.9-1993 is being updated. The Scaffold Industry Association is the secretariat for the A92.9 effort.. CPWR is recommending improvements in standards to address training, engineering controls and site safety.

A general discussion among the ACCSH members followed the presentation. Access to the platform is frequently by climbing the tower, and the dangers involved.

Also discussed were reference to "competent person" and "qualified person" in the standard. The committee consensus was that the definition needs to be clarified.

Mr. Zarletti commented that when properly used mast climbers are safer than anything else, but that a competent person should be on site with the authority to stop work on the spot if necessary for safety reasons.

Mr. Krull said the scaffold standard needs to be amended.

Mr. Broderick said that the standard process needs to change to allow rapid insertion of new technologies.

Mr. Krul moved that ACCSH recommend to OSHA that the Agency move in the most expeditious manner possible to address inadequacies in the scaffold standard to address mast climbing platform work. The motion was seconded and passed unanimously.

A hard copy of the PowerPoint presentation entitled "Mast Climbing Platform Work Group Update" by Pam Susi, CPWR, The Center for Construction Research and Training, was entered into the record as OSHA-2008-0029-0012.

A hard copy of "Final Review Draft Recommendations from the CPWR Mast Climbing Work Platform Scaffold Work Group, September 2, 2008" was entered into the record as OSHA-2008-0029-0013.

General Discussion period

Mr. Zarletti said that new ANSI standards covering Job Made Ladders and Work Zone Safety are close to being open for public comment. He also commented about the need for emphasis in work zone safety because of increased work resulting from a large amount of highway trust fund money to become available. The new standard is due to go to public comment by the end of the year.

Mr. Emmett Russell reported that about 20 industry organizations were represented at the recent crane summit, hosted by the Engineering News Record, The Associated General Contractors and the International Union of Operating Engineers. A lot of discussion centered on the operator. Clearly in the new regulation the operator will need to be certified, and there was also some discussion that specialty equipment should require additional training. There was a lot of discussion on the signal person and the rigger. The certification organization, specifically National Commission on the Certification of Crane Operators (NCCCO), has actually designed a signal person certification package and they're working on a rigger certification package.

ANSI has made some requirements for site supervisor and lift supervisor. There was discussion on assembly, disassembly, and jumping of tire cranes. The industry feel there is a need for more training and perhaps certifications in those areas. There also should be some training for those working around cranes.

Operator or competent qualified person inspections on a daily/monthly basis, and third party inspections on an annual or semiannual basis were discussed.

The idea of a crane management system to encompass everything to do with the crane on a given site was also discussed.

There was extensive discussion on power line safety and means to improve safety around power lines.

Mr. Gillen commented that construction for the wind power generation industry seems to bring some unique issues; high winds, tall cranes, and uneven terrain.

Mr. Russell said the group also talked about developing a fatality, injury, accident, and near miss database. NIOSH, CPWR, and possibly OSHA might work together on an online database.

Mr. Kavicky suggested looking at establishing a work group to deal with nail guns. Mr. Broderick added some details of incidents and added his support to Mr. Kavicky's suggestion. Ms. Arito agreed that there is a serious problem and said that she would like to be part of a work group on the issue.

The memorandum to ACCSH from OSHA Assistant Secretary Edwin G. Foulke on the proposed modifications to the Hazard Communications standard and requests for ACCSH input was entered into the record as OSHA-2008-0029-0014.

The letter from Paul Lagerstedt, Super Anchor Safety, and attached document entitled "Super Anchor Safety User Liability Ouestions" was entered into the record as OSHA-2008-0029-0015.

The report "Successful Collaborations: OSHA Cooperative Programs and the Construction Industry was entered into the record as OSHA-2008-0029-0016.

The meeting adjourned at 4:30 PM and reconvened at 8:30 Friday, 12 September 2008.

<u>Deliberation of Hazard Communication Standard to Adopt Globally Harmonized System.</u>

Mr. Broderick expressed concern with the proposed data sheet format, and that the new requirements might be less rigorous than the present ones; and Mr. Migliaccio spoke in support of the proposal.

Mr. Migliaccio moved that ACCSH recommend to OSHA that the Agency proceed with the rulemaking to revise the Hazard Communications standard to address the Globally Harmonized System of Classification and Labeling of Chemicals. The motion was seconded and passed unanimously.

Report of the Multilingual Work Group

The Multilingual work group meeting was attended by four ACCSH members and three others representing OSHA, construction companies and organizations.

The work group reviewed and discussed a graph which showed that there has been a steady decrease from 2001 to 2006 (13.3 to 10.9) in Hispanic worker fatalities.

Mr. Kevin D. Beauregard said NC has a large Hispanic workforce and actively seeks to reduce injuries and illness in that population. They have two full-time Hispanic Safety Training and Outreach staff who provide training and other outreach.

Danezza Quintero suggested collecting articles from Spanish newspapers related to construction worker injuries and death for use as case studies. She also reported on her interview on a Latino radio station in which several callers were very negative toward OSHA.

Mr Steve Hawkins described a telephone translation system used by Tennessee compliance personnel. He said it has been very useful, especially in accident investigations and inspections. Mr. Hawkins asked the group to consider the question of "What are we going to do as non-English speakers become owners of construction businesses?"

Mr. Migliaccio moved that the Multilingual Issues on Construction Work Sites Work Group report from the September 10, 2008, meeting be approved. The motion was seconded and passed unanimously.

The approved report of the Multilingual Issues on Construction Work Sites Work Group meeting on September 10, 2008 was entered into the record as OSHA-2008-0029-0017

General Business

Mr. Migliaccio moved that the Focused Inspections Work Group be renamed the Regulatory Compliance Work Group and that the work group's charge be broadened to include focused inspections, targeting, compliance programs and any and all other matters encompassed under "OSHA Enforcement." The motion was seconded and passed unanimously.

Matt Gillen moved that ACCSH establish a work group on nail guns. The motion was seconded and passed unanimously.

Mr. Broderick presented supporting information on the nail gun issue which was entered into the record as follows:

"Fatalities and Fatality Rates in Construction" prepared by OSHA and distributed to the Multilingual Issues on Construction Work Sites Work Group meeting on September 10, 2008 was entered into the record as OSHA-2008-0029-0017.1

Andrew McIntosh, "Nail gun maker warned in 2002 that their safety efforts fall short, documents show," The Sacramento Bee (www.sacbee.com), June 28, 2008 was entered into the record as OSHA-2008-0029-0018

"Nail-Gun Injuries Treated in Emergency Departments – United States, 2001-2005," Morbidity and Mortality Weekly Report, Center for Disease Control and Prevention, April 13, 2007 was entered into the record as OSHA-2008-0029-0018.1

Hester Lipscomb et al., "How Much Time is Safety Worth? A Comparison of Trigger Configurations on Pneumatic Nail Guns in Residential Framing," 123 Public Health Reports July-August 2008 was entered into the record as OSHA-2008-0029-0018.2

<u>Construction Safety Update – Investigative Update</u>

Mr. Mohammad Ayub gave an overview of recent construction incidents under investigation.

On 15 March 2008 in New York City seven people were killed when a crane collapsed. The investigation is continuing and more information will be available at the next ACCSH meeting.

On 25 March 2008 in Miami two people were killed and five injured when a crane collapsed as a new section was being added. Wind caused the new section to swing, hitting a pin on the crane mast. The new section fell through the roof of a building being used as an office. The crane erector may not have followed manufacturer's directions.

On 30 May 2008 one person was killed and two injured in a crane collapse in New York City. Approximately a year ago cracks were found in the ring and it was repaired. The investigation is ongoing.

On 2 April 2008 three people were killed when a scaffold suspended from a bridge collapsed. Part of the mechanism suspending the scaffold was manufactured from ¼ inch plate but should have been ½ inch plate.

On 18 July 2008 four people were killed and seven injured when a crane collapsed in Houston. Texas. The collapse occurred while a counterweight was being installed. The investigation is ongoing.

On 14 August 2008 one worker was killed when a crane collapsed while being dismantled. The investigation is in its early wtages and is ongoing.

On 8 April 2008 one person was killed and one injured in Key West Florida when a parking ramp collapsed. The formwork design supported only the beams, the structure collapsed when overloaded.

Mr. Ayub also discussed the structural evaluation of a paper mill in Versailles Connecticut. The structure was found not to be in danger of eminent collapse and nothing is presently being done. It will be revisited in six months.

A hardcopy of the PowerPoint presentation entitled "Recent Construction Incidents Under Investigation" by Mohammad Ayub, Office of Engineering Services, Directorate of Construction was entered into the record as OSHA-2008-0029-0019.

Public Comment

Travis Parsons reported that the ANSI standard for Work Zone Safety will soon be submitted for ballot.

Discussion

There was a general discussion regarding the schedule for appointments and re-appointments to ACCSH, Mr. Shanahan suggested that it would be good to stagger the terms of work group co-chairs. Mr. Beauregard suggested preparing continuity books in preparation for turn-over of responsibilities. Mr. David Zwolak raised the possibility of a conference call at the next meeting to include outgoing members, and provide an opportunity for some turnover information exchange..

The meeting was adjourned at approximately 10:30 AM.